

August 28, 1989



Ohio Elections Commission
State Office Tower, 14th Floor
Columbus, Ohio 43266-0418
(614) 466-2585

Advisory Opinion No. 89-4

SYLLABUS: An officeholder who purchases with his personal funds such items as emery boards, rulers, or pencils with his name and office printed thereon and distributes them for the purpose of promoting a possible future candidacy, or who purchases advertisements in publications of various organizations for the same purpose, must report such expenditures in compliance with Revised Code section 3517.10.

TO: Rocky A. Coss, Highland County Prosecuting Attorney

You have requested an opinion on the following question:

Must expenditures for items such as emery boards, rulers, and pencils and for advertisements in publications of various groups, such as sports and festival programs, which are paid for by an elected official from personal funds, contain a reference only to the fact that he is an elected official, contain no reference to elections, and are made in years other than the year in which the primary or general election for that office is to be held, be reported as a campaign contribution and expenditure under section 3517.10 of the Ohio Revised Code?

You have stated that you currently do not have a campaign committee and do not anticipate being a candidate for any public office until 1992, at which time you anticipate seeking re-election. You also state that it is your intent to distribute items such as emery boards, rulers, and pencils which will be labeled "Compliments of Rocky Coss, Prosecutor" at the county fair and other events. The items will be paid for out of your own personal funds. The items will include a disclaimer clause stating that they were paid for by you, but the disclaimer will not include a designation of treasurer of a campaign committee. You also state that it is customary in your area for public officials to purchase advertisements in various publications such as sports, fair, and festival programs.

Ohio Revised Code section 3517.10(A) provides in relevant part that:

Except as otherwise provided in this division, every campaign committee, political action committee, and political party which made or received a contribution or made an expenditure in connection with the nomination or election of any candidate or in connection with any ballot issue or question at any election held or to be held in this state shall file, on a form prescribed under this section, a full, true, and itemized statement, made under penalty of election falsification, setting forth in detail the contributions and expenditures (Emphasis added).

Ohio Revised Code section 3517.01(B)(1) defines a campaign committee as "a candidate or a combination of two or more persons authorized by a candidate under section 3517.081 of the Revised Code to receive contributions and make expenditures."

Ohio Revised Code section 3517.01(B)(3) defines a candidate as a person who has been certified for the ballot by elections officials and "also includes any person who, at any time before or after an election, receives contributions or makes expenditures or other use of contributions, . . . , for the purpose of bringing about his nomination or election to public office" (Emphasis added). Ohio Revised Code section 3517.01(B)(5) defines a contribution as " . . . anything of value . . . made, received, or used for the purpose of influencing the results of an election. R.C.3517.01(B)(6) defines an expenditure as the disbursement or use of a contribution for the same purpose or for making a charitable donation.

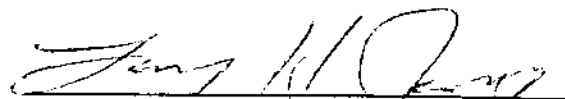
The purpose for the distribution of the described items or the purchase of the advertisements determines whether there is a contribution or expenditure under Chapter 3517 of the Revised Code. An individual's connection to the contribution or expenditure, i.e. the contribution was received or the expenditure made by the individual or persons authorized by the individual, determines whether he is a candidate under the campaign finance laws. When the purpose, in whole or part, is to bring about the possible nomination or election to public office of an individual, even if the individual has not formally declared his candidacy or decides later not to be a candidate, contributions and expenditures have occurred. If the contributions have been received or the expenditures made by the individual, including from his personal funds, or by persons authorized by him, then the individual is a candidate under Chapter 3517 of the Revised Code. All candidates are required by R.C. 3517.10 to report contributions and expenditures through a campaign committee, which may be either the candidate or persons designated by the candidate.

As a general rule, at least part of the reason that officeholders distribute novelty items to the public with their name and office printed on them and purchase patron ads is to build their name recognition. Name recognition is considered an important component of election campaigns.

For the reasons stated herein, it is the opinion of the Ohio Election Commission that:

An officeholder who purchases with his personal funds such items as emery boards, rulers, or pencils with his name and office printed thereon and distributes them for the purpose of promoting a possible future candidacy, or who purchases advertisements in publications of various organizations for the same purpose, must report such expenditures in compliance with Revised Code section 3517.10.

APPROVED:


Larry H. James, Chairman